

The Honorable Robert S. Lasnik
Noting Date 4/5/2013

**UNITED STATES DISTRICT COURT,
WESTERN DISTRICT OF WASHINGTON AT SEATTLE**

JAMES MCDONALD,

Plaintiff,

v.

ONEWEST BANK, FSB, NORTHWEST
TRUSTEE SERVICES INC., MORTGAGE
ELECTRONIC REGISTRATION SYSTEMS
INC.,

Defendants.

No. C10-1952-RSL

**COUNSEL’S DECLARATION IN
SUPPORT OF RESPONSE TO
ONEWEST’ MOTION FOR EXPERT
DISCOVERY & COUNTER MOTION
TO COMPEL**

The undersigned counsel, declares under penalty of perjury under Washington state laws that the statements made herein are true and correct to the best of her personal knowledge and that she’s making them in support of Plaintiff’s Response and Counter Motion to OneWest’s Motion for Expert Discovery:

1. I began to communicate with Julie Vacura, Esq., and Heidi Buck-Morrison, Esq., concerning the scheduling of witnesses the Plaintiff wishes to depose on March 12, 2013. Since then, I have numerous threads of email on the same subject matter with both counsel.

2. Ms. Vacura initially stated that “We will not make any of these witnesses available because we do not believe the court is allowing discovery to be reopened for any purpose other than expert witnesses on the authenticity of the original note.” Thereafter, Ms.

COUNSEL’S DECLARATION IN
SUPPORT OF PLAINTIFF’S
RESPONSE & OBJECTION TO
MOTION TO SUPPLEMENT

HA THU DAO, ESQ.

787 Maynard Ave S, Seattle WA 98104
727-269-9334/Fax 727-264-2447
hadaoid@gmail.com
youremylawyer@gmail.com

1 Vacura wrote to me: “I have gone back and looked at the court’s order again regarding
2 discovery related to the note. I interpret it to allow for discovery of OneWest witnesses that
3 may have knowledge about that issue.” Ms. Vacura promised to get back to me in the next
4 several days.

5 3. On March 19, 2013, Ms. Vacura asked me to “provide some detail about what
6 you intend to cover with the proposed witnesses regarding this issue and why you think they
7 have information related to the issue.” As to the two witnesses testifying at the evidentiary
8 hearing, Ms. Vacura asked me to “Please identify the topic areas not covered in the hearing
9 related to whether OneWest holds the original note.”

10 4. I complied with Ms. Vacura’s request fully. On March 26, 2013, I received an
11 email from Ms. Vacura stating that she will make available Chamagne Williams, JC San Pedro
12 and Charles Boyle, but not Rebecca Marks, Erica Johnson-Seck or Suchan Murray. On March
13 27, 2013, Ms. Vacura sent another lengthy email reiterating her objection: “I cannot see how
14 Murray’s or Seck’s declarations that OneWest held the note on January 27, 2010, with no
15 attestations regarding authenticity, goes to the issue of whether OneWest presented to the
16 Court on January 31, 2013 the original signed note. Ms. Marks signed verifications that do not
17 relate to the issue of whether OneWest presented the court with an original note. We continue
18 to decline to present these witnesses.” Several more rounds of emails took place but as of
19 today, I have not been able to secure Ms. Vacura’s cooperation.

20 5. I sent an email to Ms. Heidi Buck-Morrison on March 13, 2013 concerning
21 Plaintiff’s need to depose witnesses who are employed by her law firm and Northwest Trustee
22 Services. Ms. Buck-Morrison simply stated that the “lawyers do not have any personal
23
24

1 knowledge.” Today, Ms. Buck-Morrison finally advised that “neither Melissa Romeo nor
2 Mark Moburg work at RCW any longer.”

3 6. I have tried my very best to confer with defense counsel in an effort to resolve
4 the discovery issues pursuant to Local Rule 26(f). Regrettably, the issues remain unresolved.

5 DATED this 1st day of April, 2013.

6 /s/ Ha Thu Dao

7 _____
8 Ha Thu Dao, WSBA 21793
9 787 Maynard Ave S, Seattle, WA 98104
10 (727) 269-9334/Fax 727-264-2447
11 hadaojd@gmail.com
12 Attorney for Plaintiff

13 **CERTIFICATION OF SERVICE**

14 I hereby certify on April 1, 2013, the foregoing document is being served via ____First
15 Class Mail ____Priority Mail, ____Messenger Service ____Facsimile X Electronic
16 Mail X ECF, upon the following parties:

17 Heidi Buck, Attorney for Defendants
18 Routh Crabtree Olsen
19 13555 SE 36th Street, Ste 300, Bellevue WA 98006
20 425-213-5534/Fax 425-458-2131
21 hbuck@rcolegal.com

22 Charles Katz, Attorney for Northwest Trustee Services
23 Routh Crabtree Olsen
24 13555 SE 36th Street, Ste 300, Bellevue WA 98006
425-586-1940
ckatz@rcolegal.com

Julie Vacura, Attorney for OneWest Bank and MERS
Larkins Vacura
621 S.W. Morrison Street, Suite 1450, Portland, Oregon 97205
503-542-3103
jvacura@larkinsvacura.com

Fred Burnside, Attorney for MERS
Davis Wright Tremaine LLP
1201 Third Ave, Suite 2200, Seattle, WA 98101
206-622-3150
fredburnside@dwt.com

/s/ Ha Thu Dao

COUNSEL'S DECLARATION IN
SUPPORT OF PLAINTIFF'S
RESPONSE & OBJECTION TO
MOTION TO SUPPLEMENT

HA THU DAO, ESQ.

787 Maynard Ave S, Seattle WA 98104
727-269-9334/Fax 727-264-2447
hadaoid@gmail.com
youremylawyer@gmail.com